



WEB COPY



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.7525 of 2024
and Crl.MP.Nos.5465 & 5467 of 2024

Mrs.Saranya

...Petitioner /Accused

.Vs.

1.The State

The Inspector of Police
Vaitheeswaran Koil Police Station
Mayiladuthurai District.

.. 1st Respondent /Complainant

2.Mr.Navaneethan

.. 2nd Respondent /De facto Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the PRC No.24 of 2023, pending on the file of the learned Judicial Magistrate, Seerkazhi and quash the same.

For Petitioner : Mr.V.C.Vinothkumar

For Respondents : Mr.A.Gopinath
Government Advocate (Crl.Side)
for R1

ORDER

This petition has been filed challenging the proceedings in PRC No.24 of 2023, pending on the file of Judicial Magistrate, Seerkazhi.

2.Heard Mr.V.C.Vinothkumar, learned counsel for the petitioner and

Mr.A.Gopinath, learned Government Advocate (Crl.Side) for R1.



3.The case of the prosecution is that on 11.5.2022 at about 11.00 am., the petitioner is said to have thrown her child on the floor and as a result, child succumbed to the injuries the next day. Based on the complaint given by the 2nd respondent, who is a VAO, the FIR came to be registered. On completion of investigation, a final report has been filed before the Court below which has been taken on file in PRC No.24 of 2023, for offence under Section 304(2) of IPC. The learned counsel for the petitioner submitted that the petitioner is suffering from bipolar affective disorder and a report to that effect has also been given by the medical officer of the Institute of Mental Health, Kilpauk. This was not even taken into consideration by the Court below. The learned counsel submitted that such a report was furnished by the doctor, pursuant to a request made by the prosecution to assess the medical mental capacity of the petitioner.

4.The other ground that was raised by the learned counsel for the petitioner is that the Court below has taken rubber stamp cognizance.

5.In the considered view of this Court, the cognizance order passed by the Court below is liable to be interfered, since the Court below has taken rubber stamp cognizance. For proper appreciation, the same is reproduced hereunder:

PRC No.24/2023

Taken on file U/s.304(2)

Posted today 8.8.2023

Issue Summon 8.9.2023



6.This Court has deprecated the practice of passing rubber stamp cognizance order and this is yet another case where such cognizance has been taken without any application of mind. This is more so since the mental capacity of the petitioner has also been assessed as suffering from bipolar affective disorder and the same has not even been taken into consideration by the Court below.

7.In the light of the above discussion, the cognizance order passed by the Court below is hereby set aside. The matter is remanded back to the Court below and the Court below is directed to consider the entire materials including the medical report that was given assessing the mental state of the petitioner and thereafter pass fresh orders strictly in accordance with law. This process shall be completed by the Court below within a period of four weeks from the date of receipt of copy of the order.

8.In the result, this criminal original petition is allowed with the above directions. Consequently, connected miscellaneous petitions are closed.

28.03.2024

Index: Yes/No
Speaking Order/Non Speaking Order
kp



N.ANAND VENKATESH.,J

kp

To

- 1.The Inspector of Police
Vaitheeswaran Koil Police Station
Mayiladuthurai District.
2. Judicial Magistrate, Seerkazhi.
- 3.The Public Prosecutor
High Court, Madras.

CRL.O.P No.7525 of 2024

28.03.2024